

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15461 of Chatham Lake Associates, as further amended, pursuant to 11 DCMR 3108.1 and 3107.2 for a special exception under Subsection 2514.2 to allow the regulations applicable to that portion of a lot located in a less restrictive use district to be extended to that portion of the lot in a more restrictive use district, a variance from the percentage of lot occupancy requirements (Subsection 772.1), a variance from the floor area ratio limitation for other permitted uses (Subsection 771.2), and a variance from the rear yard requirements (Subsection 774.1) for construction of a mixed use residential/commercial building in the C-2-C and R-5-B districts at premises 2501 Pennsylvania Avenue, N.W. [Square 14, Lot per subdivision (Lots 800 and 812)].

HEARING DATES: February 27, April 24 and May 24, 1991 and June 9, 1993

DECISION DATES: September 4, 1991, June 9, 1993 and February 2, 1994

DISPOSITION: The Board on September 4, 1991, **GRANTED** the application with **CONDITIONS** by a vote of 5-0 (Charles R. Norris, Sheri M. Pruitt, Paula L. Jewell, Maybelle Taylor Bennett and Carrie L. Thornhill to grant). On June 9, 1993, the Board **GRANTED** the application as further amended with **CONDITIONS** by a vote of 3-0 (Paula L. Jewell, Sheri M. Pruitt and Angel F. Clarens to grant; Carrie L. Thornhill and Maybelle Taylor Bennett not present, not voting). On February 2, 1994, the Board **APPROVED** a **MODIFICATION OF PLANS** by a vote of 4-0 (Angel F. Clarens, Maybelle Taylor Bennett and Craig Ellis to approve; Laura M. Richards to approve by absentee vote; George Evans not voting, not having read the record).

FINAL DATES OF ORDER: August 13, 1993 and March 7, 1994

MODIFICATION ORDER

The Board initially granted the application by its order dated August 13, 1993. By Order dated March 7, 1994, the Board approved a modification of plans in the application. By letter dated October 16, 1996, counsel for the applicant filed a motion to waive the six-month filing requirement to allow for the filing of a request for further modification of plans.

The application was originally approved by the Board as a mixed use six-story building, incorporating the existing vacant five-story historic Luzon building, with residential use on the sixth floor of the new building, as well as three levels of residential use in the northernmost portion of the new building, fronting on 25th Street, N.W. In the proposed modification, the applicant would convert the sixth floor of the building from residential to commercial, and would convert a portion of the third floor from commercial to residential. The net change in square footage from residential to commercial would be 3,862 square feet. No additional areas of zoning relief are requested or required in this modification.

The applicant stated that after the project was approved by the Board, the owner of the project filed a building permit application, but was unsuccessful in the attempt to market the project to a number of prospective purchasers. The main impediment expressed by those potential purchasers was the residential use on the sixth floor of the building. Based upon discussions with a number of brokers, the property owner found that there was no market for a building of this configuration, with a single shared residential/office lobby serving five floors of commercial use and one floor of residential use. Potential lenders also informed the owner that they were unwilling to finance construction without substantial pre-leasing. The applicant noted that without an occupancy commitment by a tenant or buyer, the project cannot be financed, and the property will continue to sit vacant and unbuilt.

The applicant stated that the project was sold earlier this year to Castleton Holdings, Inc. for development. Castleton confirmed that the same financing and market impediments still exist. Castleton began an analysis of the building to determine what modifications would be necessary to make the project economically viable and to enhance its marketability. After discussions with brokers and lenders, as well as with Councilmember Jack Evans, the Office of Planning, the Historic Preservation Review Board staff, and certain community representatives that co-signed the 1993 settlement agreement for the project, Castleton decided to propose a conversion of the sixth floor residential component in the "townhouse" portion of the building on 25th Street by replacing approximately 1,400 square feet of third floor office space with residential space.¹ The revised plans also indicate the removal of the west and north walls of the existing building, which were to

¹ The revised plans also indicate the removal of the west and north walls of the existing building, which were to become interior and hidden walls in the completed project. Although this is reflected in the revised plans, it does not affect any of the zoning calculations for the project.

become interior and hidden walls in the completed project. Although this is reflected in the revised plans, it does not affect any of the zoning calculations for the project. The applicant maintains that this shift will better delineate the residential and nonresidential components of the building, maximizing the residential portion in a townhouse apartment configuration on the north part of the site on 25th Street, adjacent to the other townhouse apartments on that block. The complete separation of the residential and nonresidential portions of the building is also consistent with a number of other successful mixed-use buildings in the West End.

The applicant stated that given the small size of the building footprint, it is not feasible to add a second entrance, lobby and elevator core for residential units. Moreover, under the Building Code, it is not possible to put more than three above-grade levels (and one below-grade level) of walk-up residential units in the building without providing a second means of egress. Given the site constraints and limited building footprint, there is no room to provide the second means of egress.

With regard to the request for a waiver from Section 3335.3, to allow this modification request to be considered more than six months after the final date of the written order approving the application, the applicant stated that the original order was issued on August 13, 1993, and the modification Order was issued on March 7, 1994. The zoning approval was vested by the filing of a building permit application on June 14, 1994. The prior owner actively marketed the project until early in 1996, when Castleton purchased the project for development. After studying the project and reviewing the options with interested parties, Castleton is now in a position to move forward with the approval process, so that the project can be built.

The applicant believes that the proposed modifications are minor and do not change material facts the Board relied upon in approving the application. Therefore, the applicant requests approval of this modification of plans.

The Board received correspondence from some of the parties to the application.

By letter dated October 26, 1996, the Single Member District Commissioner for Advisory Neighborhood Commission districts 2A01, 2A02, 2A04 and 2A06 expressed their support for the project modification. They also submitted a resolution in support which was not voted on due to the lack of a quorum at the ANC meeting. The support in the resolution was conditioned upon the developer beginning construction within six-months of obtaining all historic preservation, zoning and building permit approvals.

The Board also received support letters from the Single Member District Commissioner for ANC 2E04, the President of the Board of Directors of the Westbridge Condominium Association, and two individual residents of the Westbridge Condominium.

No letters opposing the modification of plans were received by the Board.

Upon consideration of the motion for waiver of the six-month filing requirement and the circumstances related to the applicant's efforts to develop the property, the Board determines that the waiver should be approved.

Upon consideration of the request for modification of plans and the letters in support, the Board concludes that the proposed modifications are minor and do not change the material facts relied upon by the Board in approving the application. The Board further concludes that based on the market analysis conducted by the applicant, the modifications were necessary to make development of the property feasible. No additional zoning relief is required. Therefore, it is **ORDERED** that the proposed **MODIFICATION OF PLANS** is **APPROVED** and that plans marked as Exhibit No. 124 of the record shall be substituted for those plans originally approved and subsequently modified, marked as Exhibit No. F-22 of the record.

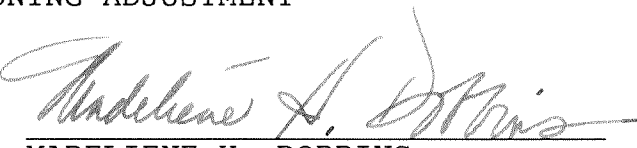
DECISION DATE: November 6, 1996

VOTE: 3-0 (Angel F. Clarens and Laura M. Richards to **APPROVE** the **MOTION FOR WAIVER** of the six month filing requirement; Maybelle Taylor Bennett to approve by absentee vote; Sheila Cross Reid not voting, not having heard the case; Susan Morgan Hinton not present not voting. not having heard the case).

VOTE: 3-0 (Angel F. Clarens and Laura M. Richards to **APPROVE** the **MODIFICATION OF PLANS**; Maybelle Taylor Bennett to approve by absentee vote; Sheila Cross Reid not voting, not having heard the case; Susan Morgan Hinton not voting not present, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: _____

FEB 3 1997

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PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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